

**MINUTES
of the
JOINT MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE
and the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**September 24-25, 2007
Room 6, Aztec Room
Ruidoso Convention Center**

The joint meeting of the Water and Natural Resources Committee (WNRC) and Courts, Corrections and Justice Committee (CCJ) was called to order at 8:39 a.m. on Monday, September 24, 2007, by Senator Phil A. Griego, chair, in the Aztec Room of the Ruidoso Convention Center in Ruidoso, New Mexico.

Water and Natural Resources Committee

Present

Sen. Phil A. Griego, Chair
Rep. Andy Nunez, Vice Chair
Rep. Paul C. Bandy
Rep. Elias Barela
Sen. Sue Wilson Beffort
Rep. Joseph Cervantes
Sen. Mary M. Jane Garcia
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Rep. Larry A. Larrañaga
Rep. Kathy A. McCoy
Sen. Steven P. Neville
Sen. Mary Kay Papen
Rep. Mimi Stewart
Rep. Don L. Tripp

Absent

Rep. Ray Begaye
Sen. Dede Feldman
Sen. Cynthia Nava

Advisory Members

Sen. Rod Adair (9/24)
Sen. Vernon D. Asbill
Rep. Anna M. Crook
Rep. Nora Espinoza (9/24)
Rep. Candy Spence Ezzell
Sen. Cisco McSorley
Sen. John C. Ryan
Rep. Henry Kiki Saavedra
Rep. James R.J. Strickler
Rep. Peter Wirth
Rep. Eric A. Youngberg

Sen. Carlos R. Cisneros
Sen. Timothy Z. Jennings
Sen. Gay G. Kernan
Rep. Rhonda S. King
Rep. Ben Lujan
Rep. James Roger Madalena
Rep. Danice Picraux
Sen. Leonard Lee Rawson
Sen. Nancy Rodriguez

Courts, Corrections and Justice Committee

Present

Rep. Al Park, Co-Chair
Sen. Cisco McSorley, Co-Chair
Sen. Rod Adair (9/24)
Rep. Thomas A. Anderson
Rep. Joseph Cervantes
Sen. Richard C. Martinez
Sen. Lidio G. Rainaldi
Rep. William "Bill" R. Rehm
Rep. Peter Wirth
Rep. Eric A. Youngberg

Absent

Rep. Gail Chasey
Sen. Kent L. Cravens
Sen. John T.L. Grubestic
Sen. Carroll H. Leavell
Rep. Antonio "Moe" Maestas

Advisory Members

Rep. Elias Barela
Rep. Daniel R. Foley (9/24)
Sen. Mary Jane M. Garcia
Sen. Clinton D. Harden, Jr.
Sen. John C. Ryan
Rep. Mimi Stewart
Sen. James G. Taylor
Rep. Teresa A. Zanetti

Sen. Ben D. Altamirano
Sen. Gay G. Kernan
Sen. Linda M. Lopez
Rep. W. Ken Martinez
Sen. William H. Payne
Rep. Jane E. Powdrell-Culbert
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton
Rep. Thomas E. Swisstack

Guest Legislator

Rep. Daniel P. Silva

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Gordon Meeks
Maha Khoury
Aldis Philipbar

Guests

The guest list is in the original meeting file.

Monday, September 24

John Underwood, lobbyist for Ruidoso, began by welcoming the committee and pointing out that the legislature helped fund the convention center in which the meeting was taking place. Senator Adair then welcomed the committee to his district and introduced Alvin Jones, a state district attorney, and Jackie Powell, a county commissioner. The committee members introduced themselves and Representative W.C. "Dub" Williams welcomed them.

Ruidoso and Hondo Valley Water Issues

Ms. Powell discussed the immediate challenges facing Ruidoso and the Hondo Valley, including depleting flows in the Rio Ruidoso, raw sewage, poorly treated sewer plant effluents and water transfers. She gave a general description of the Rio Ruidoso watershed and the main users, i.e., the villages of Ruidoso and Ruidoso Downs and the farmers along the river valley. She told the committees that Eagle Creek, an entirely separate stream, was erroneously described as having 5,000 acre-feet of water available. The most water produced in any given year from Eagle Creek has been 1,200 acre-feet of water. The two villages are now hoping and planning to find water from the agricultural producers downstream to provide the water needed for their growth. Most of the streams in the valley have been overdrawn so that now agriculture is limited to torrential waters and supplemental wells because the natural flows of Rio Ruidoso have all been diverted. As water is removed from agriculture upstream, noxious weeds are also becoming a major issue. Ms. Powell commended the municipal employees for their work, but she noted that the villages have not yet solved their water quality or quantity problems and agriculture is continually pressured.

Mr. Jones, attorney for the Village of Ruidoso, summarized Ruidoso water rights and expressed appreciation for Ms. Powell's comments. He discussed permit transfers and the application process for obtaining a permit. Mr. Jones stated that the Village of Ruidoso is tightly regulated and conducts monthly reviews with the Office of the State Engineer (OSE). Mr. Underwood then explained Ruidoso's plans and current situation. He said that an application for a new wastewater treatment system has been submitted. He then explained the hookup of the Mescalero Inn of the Mountain Gods to the village system. Mr. Underwood stated that the wastewater system must be addressed in a conscientious manner.

Questions and discussions included the following:

- rates charged to water users;
- bonding capacity;
- the lawsuit of homeowners on opposite sides of Eagle Creek over contaminated wells;
- the prospect for a negotiated solution to objections over village permits;
- the potential terms of a negotiated settlement;
- total cost of treatment plan and phasing;
- support for designating a percentage of gaming revenue to go into infrastructure;
- acquisition of water rights for development;
- status of forest thinning;
- the Forest Guardians lawsuit;
- number of requests for water projects (\$2 billion total in 2007);
- population of Lincoln County;
- requirement of water rights for development and golf courses (not subdivisions);
- state and local financing is out of proportion to the funding that the federal government has committed;
- proportions of government's and legislature's funding;
- the economy of the Ruidoso/Lincoln County area and oil and gas revenues;
- Rio Bonito water rights and use of domestic wells in subdivisions in that basin;

- critical management area rules' limits on domestic wells permits;
- the appearance of phosphorous in high mountain streams due to failure of the wastewater treatment plant;
- problems with rules and regulations hampering economic development;
- the state applying more stringent standards in regard to nitrogen levels than federal regulations, causing the new plant to fail to meet new regulations; and
- funding requests for water projects to include capital outlay funds for each legislator.

Water Adjudication Reform

State District 3 Judge Jerald Valentine, Special Master Steve Snyder and Celina Jones, Administrative Office of the Courts (AOC), stated that there are no standards for conducting adjudications across the states, but there are many similarities between select western prior appropriation states. Ms. Jones said that New Mexico is trying to learn from common conceptual approaches in the states where a judicial officer has reported that adjudication procedures are successful to see what works best. The study was performed under the assumption that the purpose of adjudication is to compile a list of water rights and related elements. The other states examined by the AOC employ a claim-based adjudication system in which a claimant is required by law to prepare and file a water rights claim with either the court or the state water agency. The water rights claim must be filed by a statutory deadline.

Mr. Snyder identified several states with water rights adjudications procedures worth studying in relationship to New Mexico's. He summarized an AOC memorandum and a table comparing New Mexico, Idaho, Montana and Colorado. He said that other states have full-time water courts. Mr. Snyder said that general stream adjudications are different from regular lawsuits in that they are more technical due to a requirement to establish an inventory or accounting system for water. They each involve investigation into the water rights of a particular area. New Mexico adjudications are based on a 1907 statute and regulations developed by the OSE in the 1950s. Currently, New Mexico has a different process than other states in identifying claimants. The OSE prepares documents that lay out what the claimant's water rights are, which is a time-consuming project, and then the claimant is made a defendant in a lawsuit. In other states, the claimant files a personal claim that is reviewed by the state water agency for accuracy and validity, i.e., claims-based adjudications. In other states, the state water agency is not a party to a lawsuit, unlike in New Mexico, where the state engineer is in the awkward position of suing state residents who have water claims. The focus of other states' water agencies' duties in adjudications is to serve as a technical reviewer of the water rights claims and as a technical adviser to the courts.

The AOC began meeting with the OSE a few months ago, Mr. Snyder said, in attempts to develop improvements in the adjudication process that might result in less adversarialness and more positive participation by water rights claimants. Judge Valentine began participating in those discussions because of his role as presiding judge on the lower Rio Grande adjudication and as chair of the state supreme court's committee on water. The AOC emphasized that the development of procedural reforms should precede the identification of changes to the water court structure.

Judge Valentine then gave a brief summary of New Mexico water statutes that deal with water adjudications. He explained that the purpose of water adjudication is to give the OSE the means to manage the state's water rights. He said there are a number of problems that cause the process to be slow. He started looking at the issues five years ago because of the problems on the lower Rio Grande adjudication. Coincidentally, he looked at the same states that the AOC has been reviewing: Colorado, Idaho and Montana. He emphasized that as the committees look at these issues, they need to realize that under the New Mexico Constitution, the legislature cannot change the procedural rules that govern a particular adjudication while it is in process, but that conceivably it can change the rules prior to the initiation of a new adjudication, i.e., the middle Rio Grande.

Judge Valentine highlighted some of the issues that are slowing down the adjudication process:

- inability of the OSE to maintain up-to-date water ownership records;
- lack of timely and efficient use of hydrographic surveys;
- the historical OSE opposition to general stream adjudications;
- lack of legislative appropriations for adequate resources;
- inadequate judicial case management procedures;
- inadequate OSE field staff, as opposed to legal staff;
- a breakdown of court records related to water rights; and
- unreliability of hydrographic surveys as prima facie evidence of a water right (water use is too variable).

Judge Valentine's handout described some funding needs that the legislature should consider:

1. the Joe M Stell Ombudsman Program;
2. additional field staff in the OSE;
3. referees for the courts;
4. software development for the OSE's WATERS and WRATS databases to interact; and
5. improvements to the courts' FACTS case management system.

Judge Valentine, Ms. Jones and Special Master Snyder said that caution is needed in contemplation of changes to the adjudication process.

On a motion made and seconded, the minutes of the previous meeting of the WNRC were unanimously approved.

On a motion made and seconded, the minutes of the previous meeting of the CCJ were unanimously approved.

Questions and comments on water rights adjudications reform included the following:

- anticipated problems of adopting other state plans;
- frequency of forfeiture of water rights;

- description of conventional cases and progress to settle;
- lack of resources as a continuing problem (use of hydrographic surveys have contributed to this delay);
- adjudication as a necessary management tool because it helps determine how much water is available for appropriation;
- no deadline imposed on water adjudications;
- filing claims takes a lot of resources (i.e., lawyers; other states use technicians for technical issues);
- convert as much of this process as possible to a nonadversarial process;
- water courts are not a good idea because they are inefficient (but Judge Valentine suggested there be a chief water judge);
- an honest budget is needed as opposed to a flat budget;
- default on water rights adjudication relying on hydrographic survey results;
- dependency of the lower Rio Grande adjudication on the middle Rio Grande;
- federal rights need to be mediated not adjudicated;
- details of the OSE budgets;
- use of licensure;
- inherent intimidation of litigating water rights;
- role of the attorney general;
- prospects for automating the courts and the OSE's case management procedures;
- reform of the court structure to better accommodate water adjudications;
- who should lead an effort to redraft statutes;
- the need for better definition of adjudication procedures in the statutes;
- the percentage of default judgments and disputed cases;
- this year's budgeting schedule;
- budgeting committees' processes;
- too many agencies involved in water administration;
- Water Subcommittee of the House Appropriations and Finance Committee;
- the burden of proof in New Mexico of water rights claims; and
- the typical profile of default settlements.

Proposals to Expedite Adjudications:

- **Rio Chama Template for Expediting Water Adjudications**
- **Proposed Schedule for Conducting Future Adjudications**
- **Budget Requirements**

John D'Antonio, state engineer, said that the OSE faces special challenges in New Mexico in regard to water rights adjudication. They include:

1. the large number of Indian claimants who have rights going back to Spanish and Mexican rule;
2. the large number of early, poorly documented non-Indian claims;
3. informal acequia traditions;
4. extreme aridness of New Mexico and climate variability;
5. interstate compact delivery obligations;

6. multiple, simultaneous, complex adjudications; and
7. New Mexico's cultural diversity.

The OSE provided a handout that showed a \$6.971 million budget for all operations of the litigation and adjudication program, of which \$6.299 million is for water rights adjudications. The current primary adjudications are being undertaken by the Pecos Bureau, the Lower Rio Grande Bureau and the Northern New Mexico Bureau. The following summaries of the status of the following adjudications were included in the handout:

Lower Rio Grande:

- subfile orders have been entered by the court for 4,300 subfiles, about 33% of the approximately 13,150 subfiles in the lower Rio Grande, and the court has ordered that all known claimants be joined before resumption of service of offers of settlement;

Pecos River:

- Gallinas portion of the Pecos adjudication is proceeding with determination of the Las Vegas rights expected in 2008; and
- anticipated completion of the Carlsbad Irrigation District (CID) membership phase is set for 2007 and initiation of the CID *inter se* phase is expected in 2008; and

Northern New Mexico:

- 85% of the subfiles on the Rio Chama have been entered, covering 16,000 acres above Abiquiu;
- began subproceeding in 2007 to adjudicate Ohkay Owingeh rights;
- Taos Valley (*Abeyta* case) negotiated settlement pending congressional approval and contingent on state matching funds;
- Pojoaque Valley (*Aamodt* case) negotiated settlement pending congressional approval and contingent on state matching funds and began hydrographic survey of ground water to adjudicate domestic wells by 2012;
- settlement negotiations with the Pueblos of Jemez, Zia and Santa Ana begun in 2007;
- Pueblo of Zuni subproceeding begun in 2007;
- Pueblos of Acoma and Laguna under active adjudication;
- San Juan River has 600 parties joined, with 104 consent orders and 65 subfiles adjudicated since 2006;
- Navajo Nation-negotiated settlement signed in 2005, pending congressional approval and contingent upon state match;
- Santa Fe continuing adjudication;
- Red River: final decree on nonfederal water rights entered in 2000, but post-decree issues arose from Cabresto storage right in 2005, litigation pending; and
- Santa Cruz/Truchas in pending Ohkay Owingeh adjudications.

D.L. Sanders, OSE general counsel, gave a status report on the OSE adjudications

caseload and said that the OSE is improving its current processes. It will cost an estimated \$94.5 million to complete the existing adjudications within 15 years. A dedicated budget of \$17 million per year will be required to complete an estimated 180,000 adjudication cases over the next 40 years. Mr. Sanders said that a new procedure for dealing with the middle Rio Grande would likely not reduce the cost. Greg Ridgley, OSE counsel, also discussed water adjudication issues and answered questions from the committee.

Questions and comments included the following:

- not looking to other states to improve process is a copout;
- participation of the OSE with the AOC to improve adjudication procedures;
- OSE preparation of its own white paper on reform;
- legislators told the OSE that more money for adjudication will depend on progress in reforming that process;
- transfers of water rights records out of district offices;
- role of district offices in adjudication;
- use of the ombudsman program to reduce intimidation and the appropriate timing of ombudsman services;
- half of appropriated funds go to hydrographic survey/fieldwork;
- Idaho adjudication process;
- discussion of the process of hydrographic surveys;
- prioritization of adjudications;
- the OSE requesting capital outlay money for metering;
- how to return rights that were denied;
- San Juan irrigators do not support the Navajo settlement;
- status of lower Rio Grande adjudications;
- problems, miscommunication and misunderstandings caused by the state engineer being confined to flat-budget requests by the governor when expediting adjudications will necessitate increased budgets by each participating institution;
- detailed description of the process;
- use of the Water Project Fund for adjudications;
- how protested cases are resolved;
- compliments to Joey Fields in the OSE for his handling of a difficult constituent request;
- the Winters Indian water rights doctrine;
- a specific case in Dona Ana County where a claimant lost water rights;
- history of the protocols of hydrographic surveys;
- why hydrographic surveys are part of the process;
- results of the *Reynolds* decision overturning much of the Active Water Resource Management (AWRM) rules;
- whether or not prior appropriations is the doctrine of water law in New Mexico;
- whether the OSE intends to implement AWRM despite the *Reynolds* decision;
- the reason the Rio Chama template is not used in the Gallinas adjudication;
- where the automobile hybrid appropriation from the Water Project Fund came from;
- criteria for funding water projects from the Water Project Fund; and
- offers of settlements being made based on consumptive rights rather than diversion

rights.

Senator Griego distributed a prepared set of questions for the OSE, based on questions from the WNRC's Taos meeting, among the committee members and the panel. He requested that the OSE respond in writing to those questions and return to the next meeting with the answers. The questions included the following subjects, among others:

- does OSE favor junior users (municipalities) over senior users (agriculture);
- authorizing statute to conduct metering;
- total cost of WATERS;
- when is pro se litigation opposed in adjudications;
- how many water rights claimants are there in New Mexico;
- applicability of AWRM rules in lieu of the *Reynolds* decision;
- the reason for not using the template in the Rio Gallinas adjudication;
- who added the hybrid auto plant to the appropriation bill last year;
- criteria for water projects; and
- offers of settlements based on consumptive rights rather than diversion rights.

The Role of Ombudsman and Intervenors in Water Adjudication

Steve Hernandez, attorney, stated that there are issues with people not opening/returning mail regarding water rights due to intimidation. There is much confusion over water rights. He gave examples of individual claimant's experiences. They included:

- acreage disputes;
- misunderstanding of the process;
- acreage measurements not matching titles and deeds;
- lack of probate under family bequests; and
- inaccurate recording or failure to record easements.

He said that adjudications force people to get their houses in order.

Susan Kelly, Joe M Stell Ombudsman Program, Utton Center, explained the services of the ombudsman program in adjudications. This is the first year the program has had state funding. The Utton Center takes calls regarding water rights issues to help people understand the process. She gave examples of the service in various adjudications.

Questions and comments included the following topics:

- nothing is going on in the middle Rio Grande;
- the ombudsman program has been approached about the middle Rio Grande, but is currently only working on active adjudications;
- hope is that funding will be a part of the higher education budget;
- anticipated increase in funding; and
- how much does an ombudsman's service cost in an average intervention and for the 180,000 estimated settlements in the middle Rio Grande.

The meeting recessed at 6:30 p.m.

Tuesday, September 25

Pecos River Settlement

A.J. Olsen, attorney, stated that the Pecos Valley Artesian Conservancy District (PVACD) was established in 1932. It is the only artesian conservancy in New Mexico and is funded by property taxes. The PVACD is 20-25 miles wide and extends from southern Chaves County north of Roswell to northern Eddy County just north of Carlsbad. At one time, the district included 144,000 acres under irrigation. That number has since been reduced to less than 110,000 acres. This has been a tremendous hit to the local economies.

The lower Pecos River settlement came out of a CID priority call and a 1988 supreme court order. In 2001, a drought brought all the large water users together in an ad hoc committee to determine how to make compact deliveries. This reduction has resulted in an economic hit to the surrounding communities. It takes 20 to 40 years to return lands to their natural state. In March 2003, the settlement agreement was signed. Mr. Olsen said that progress is being made thanks to funding from the legislature to make land purchases. Mr. Olsen said that the PVACD is currently in compliance with 80,000 acre-feet in credits at the state line. Once the PVACD reaches 115,000 acre-feet in credits, it can begin the process of selling water rights back to original owners. Mr. Olson also discussed HB 1278, which would have provided for an alternate method of acquisition to separate water rights from land to allow owners to retain land. HB 1278 was vetoed by the governor. Mr. Olsen asked the committees for assistance when the bill is reintroduced in the 2008 session.

Questions and comments included the following:

- salt water going into the Pecos River as a credit against New Mexico's compliance obligations;
- the potential to sell the land back to the original owners;
- requesting a letter from the governor as to why he chose to veto the bill;
- a potential veto override;
- 25,055 irrigated acres in CID;
- that current statute and settlement mandate that land and water rights be purchased together;
- municipalities can purchase water rights without purchasing land;
- water rights on purchased lands are being severed and transferred to augmentation wells for compact compliance;
- management of land after severance of the water rights to prevent invasion of noxious weeds;
- statutes requiring good land stewardship;
- inflation of land values as a result of the settlement conditions;
- water rights retirement program linked to settlement and not statewide;
- the provision in law to prevent double dipping of the water balance;
- phreatophyte treatments on the Pecos River;
- livestock grazing on retired land;
- loss of tax base from 18,000 retired acres; and
- buy-back provision at appraised value.

Challenging Energy Era

Art Hull, lobbyist, Public Service Company of New Mexico (PNM), stated that New Mexico is experiencing higher energy consumption due to refrigerated air, laptops, cell phones and larger homes. PNM estimates a 40% increase in energy consumption by 2030. New Mexico will need to invest \$400 billion in energy infrastructure to accommodate this growth. Rates at PNM have been frozen since 2003 in spite of increasing costs to the company. PNM will spend \$2 billion over the next five years to meet the energy consumption of New Mexico consumers, he said. In 2007, PNM filed for a rate increase to cover these costs. If approved by the Public Regulation Commission (PRC), customers will see a one-time 20% increase in their base rates. Mr. Hull discussed alternative energy solutions and stated that PNM constructed the third-largest wind farm in the world.

Questions and comments included the following:

- the average increased cost to customers will be \$100 per year;
- the need to double infrastructure nationwide — \$2 billion in New Mexico;
- rates set by the PRC;
- nuclear power as an optional energy source;
- stock value of PNM;
- 18% base rate increase, two percent adjustment for additional costs;
- no new transmission lines since 1989;
- how will PNM help low-income families pay for the increase;
- PNM works with communities to help find ways to reduce costs (e.g., reducing usage, weatherization, increasing efficiency, etc.);
- PRC adopted a rule requiring 20% of the renewable portfolio to be solar;
- solar energy is the most expensive;
- hydroelectricity;
- PNM uses tiered rates based on usage;
- suggestions to give incentives to customers who reduce their usage; and
- the only nuclear plant PNM has interests in is Palo Verde.

Grazing Units and Damage on National Forest Allotments and Otero County Resource Management Program

Dr. Martin Moore, Otero County administrator, introduced the panel to discuss this issue.

Charlie Walker, Otero County rancher, gave a brief history of ranching in the west and grazing practices. He claims that the U.S. Forest Service (USFS) does not have the authority to manage grazing or charge grazing fees. Mr. Walker said that proper range management is based on science. Elk, which were brought in by the Mescalero Apache, have become a huge problem for ranchers. Elk compete with cattle for forage. The USFS has reduced the number of cattle allowed on grazing allotments, but seven elk consume the same amount as 10 head of cattle. Mr. Walker requested elk tags for ranchers and hunting allotments provided to landowners so they can stay in business. He also wants the State Game Commission to change the formula for allotment owner tags.

Frances Goss, Otero County rancher, told the committee about her personal experiences with the USFS and grazing rights. In the early 1990s, she said, the USFS wanted to remove everyone with cattle from the Lincoln National Forest — "cattle free by '93". In 2000, there was a drought and the USFS reduced her cattle from 553 to 330, cutting her income by one-third. The Range Improvement Task Force found a ratio of 187 elk to 71 cattle, but the USFS maintains that it could not cut the elk. The Goss' property received 35 inches of rain in the last year, and the USFS agreed to increase the number of cattle by 40 head. Ms. Goss stated that not all federal lands are public lands and her family is bearing the cost of supporting the elk. She feels this constitutes a taking without just compensation but her family has decided not to sue on those grounds, even though her family has lost \$669,000 since 2001. She said that David Sanchez was paid for his losses by the Department of Game and Fish (DGF), but not her, even though the former director of the department told her that her family could get paid for the losses.

She testified that the supreme court ruled in 1928 that the USFS could protect the resources by killing game animals that damaged the federal resources, thereby preempting state laws. Mr. Walker and Ms. Goss requested legislation requiring DGF to use sound science in managing game. A recent DGF study showed that more elk and cattle could be put on the allotments.

Doug Moore, chair, Otero County Commission, said that elk are technically trespassing; if it were a cow or a horse, measures would be taken to remove the animal. There has been a two percent reduction in meadow size. Dr. Martin Moore, Otero County administrator, requested a task force involving the appropriate parties to work together to develop state policy. He requested that the legislative body adopt a joint resolution that recognizes and develops a workable compensation program for landowners and public land livestock producers; focuses on the habitat that sustains livestock, elk and native ungulates; and redirects attention toward science-based management.

Senator Griego told the presenters he will request an extra day in November for the WNRC to bring all of the appropriate parties to the table to discuss this issue.

Questions and comments included the following:

- the absence of USFS representation at the meeting even though the agency was invited to have its views presented;
- the problem is with USFS management;
- stories about wildlife damage;
- the DGF statement to the USFS that resources are not in jeopardy, so there is no justification for reducing the herd; and
- the DGF taking away ranchers' livelihood.

Watershed Action

Bill Mershon, chair, Otero Soil and Water Conservation District, stated that Otero County governs most of the Sacramento Mountains, which comprise the watershed for Tularosa. The Penasco River has dried up for the first time in over 60 years and the landscape has changed drastically since then. The drying of the river predates the drought. Mr. Mershon said that the landscape is not characterized by 1,600 trees per acre when the natural growth is only 40 to 50

trees per acre. Mr. Mershon requested funding from the legislature in 2005 to conduct a geological study of the Sacramento Mountains. He said that science is needed to understand how the watershed functions.

Peggy Johnson, Bureau of Geology and Minerals, stated that in 2005 the bureau began a hydrological/geological study in the Sacramento Mountains, and the study has been expanded to include a watershed study. The bureau will monitor spring and discharge levels and collect baseline data over three years. So far, the study has identified three drainages on private and USFS land.

State Forester Work Plan

Butch Blazer, state forester, outlined the objectives and strategies of the Forestry Division of the Energy, Minerals and Natural Resources Department in regard to forest and watershed management, community forestry, wildland fire management and capacity development. He discussed the Forest and Watershed Office Plan of Work that was developed by the Forest and Watershed Health Office staff. Mr. Blazer said that the Forest and Watershed Health Coordinating Group is made up of members from a variety of agencies, including New Mexico State University, the Bureau of Indian Affairs, the New Mexico Department of Environment and the Natural Resource Conservation Service. He stated that federal allocations for the Lincoln and Otero county areas total over \$4 million, which are used to assist the areas in conducting wildland urban interface, hazardous fuel reduction and forest and watershed restoration projects.

Questions and comments included the following:

- no public members on the Forest and Watershed Health Coordinating Group;
- the biomass processing facility and market for forest products;
- natural tritium sources; and
- use of tritium for water tracing (dating the water source).

The meeting adjourned at 1:24 p.m.